

Yelling Fire About Smoke

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By Councilmember Isiah Leggett

The air quality legislation passed by the Montgomery County Council and vetoed by the County Executive this week would have protected Montgomery's families from hazardous indoor air pollution, including excessive tobacco smoke.

It updated the County's 25-year-old clean air laws, laws originally passed when it was commonplace to smoke in elevators, airplanes, the workplace, and even hospitals. We have come a long, long way since then.

The measure, rather than being debated on the merits, was falsely labeled as an invasion of privacy, as a ban on the right of people to smoke in their own homes, or even likened to acts of the Nazis or the Taliban. The former criticisms are simply inaccurate. The latter are insulting to those who lost relatives to the very real evils of Nazism or whose sons and daughters even now battle Taliban extremists.

If this reaction to the bill sounds familiar, that is because some of the same rhetoric was used when Montgomery County took the lead in banning smoking in the workplace in the 1980's, years before the state of Maryland followed suit. Or when the Council approved legislation in 1999 to protect restaurant workers and customers with smoke-free eating and drinking establishments. Or when we required stores to put tobacco products behind the counter, out of reach of young people.

In fact, the bill did not regulate indoor air quality in individuals' own homes. And the bill did not affect anyone's right to smoke in their own home.

What it was intended to do was to give County residents the right to complain to the County's Department of Environmental Protection if a dangerous substance from one property caused hazardous indoor air pollution inside another property. Environmental tobacco smoke would have been treated no differently than any other indoor air pollutant. Nor should it have been, given the proven hazards of second-hand smoke.

The following are examples of the kind of problems the bill would have addressed. A County resident with whom I spoke lives in a townhouse. Her neighbor's spouse won't allow smoking in their townhouse, so her husband lights up in the garage. His smoke goes into the neighbor's home. The man refuses to

simply move to another section of the garage, to use a smokeless ashtray, or to vent it and send the smoke in a different direction.

Another resident who lives in a condo suffers from asthma and bronchitis. Her next-door neighbors are heavy smokers, and their smoke continually enters her unit through the ventilation system. "I have had difficulty resolving this matter," she tells me.

Protecting these and other residents' health is not a violation of privacy for the smoker, but a public responsibility. One individual's rights end where another individual's health begins.

We already have local laws to protect residents from dangers or nuisances from neighbors, such as noise, dangerous animals, and vehicle parking.

With those issues, as well as this legislation, the County's goal would be to avoid or fix problems, not punish people. The County would have implemented this legislation first through education, then through complaint resolution, and only, as a last resort, by taking enforcement action. And any burden of proof would rest squarely on the resident complaining of tobacco smoke pollution, not the smoker.

I expect that in a year from now, if this legislation had passed, Montgomery County would have logged five or six dozen complaints from a County with 850,000 residents. A dozen or so might have been validated and few, if any, fines would have been handed out.

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Isiah Leggett is an at-large member of the Montgomery County Council and chairs the Council's Transportation and Environment Committee.